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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**  
10

11 MARK ANTHONY YOUNG

12 Plaintiff,

13 v.

14 COUNTY OF LOS ANGELES;  
15 DEPUTY RICHARD WELLS, and  
16 DOES 1 through 10, inclusive

17 Defendant.  
18

CASE NO. CV 08-05438 R (RZx)

[Assigned to Hon. Manuel L. Real]

**~~PROPOSED~~ STATEMENT OF  
UNCONTROVERTED FACTS**

19 After consideration of the papers filed in support of and in opposition to the  
20 motion of the defendants for summary judgment or, in the alternative, partial  
21 summary judgment, and of the oral argument of counsel, the Court determines that  
22 the following facts are uncontroverted:

23 1. At the time that defendant Deputy Richard Wells stopped and detained  
24 the plaintiff, the plaintiff was not wearing his seat belt, in violation of section  
25 27315(d)(1) of the California Vehicle Code.

26 SUPPORTING EVIDENCE: Exhibit 2 to the Declaration of Deputy  
27 Richard Wells and Exhibit 3, page 2, lines 9-18.

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1           2.     At the time that Deputy Wells stopped and detained the plaintiff, the  
2 plaintiff's vehicle did not have a rear license plate, in violation of section 5200 of  
3 the California Vehicle Code.

4           SUPPORTING EVIDENCE:     Exhibit 2 to the Declaration of Deputy  
5 Richard Wells and Exhibit 3, page 3, lines 8-19.

6           3.     At the time that Deputy Wells stopped and detained the plaintiff, the  
7 plaintiff's vehicle did not have a left side mirror, in violation of section 26709(a) of  
8 the California Vehicle Code.

9           SUPPORTING EVIDENCE:     Exhibit 2 to the Declaration of Deputy  
10 Richard Wells and Exhibit 3, page 2, line 23 - page 3, line 6.

11          4.     At the time that Deputy Wells stopped and detained the plaintiff, the  
12 plaintiff was aware that Deputy Wells was a peace officer engaged in the  
13 performance of the officer's duties.

14          SUPPORTING EVIDENCE:     Declaration of Mark Anthony Young in  
15 Support of Plaintiff's Opposition to Defendants' Motion for Summary Judgment  
16 (hereafter referred to as the "Young Declaration"), paragraph 4, page 1, lines 25-26.

17          5.     During the course of Deputy Wells' traffic stop of the plaintiff, the  
18 plaintiff exited his truck, walked past the front of it, and sat down on the curb in  
19 front of his truck.

20          SUPPORTING EVIDENCE:     Young Declaration, paragraph 14, page 2,  
21 lines 17-18.

22          6.     Deputy Wells asked the plaintiff to return to his vehicle at least five  
23 separate times, and the plaintiff repeatedly refused to comply with the deputy's  
24 instructions.

25          SUPPORTING EVIDENCE:     Exhibit 2 to the Declaration of Deputy  
26 Richard Wells and Exhibit 3, page 4, line 2 - page 5, line 5.

27          7.     Deputy Wells did not use force to compel the plaintiff to return to his  
28 vehicle until the plaintiff had repeatedly refused to comply with the deputy's

1 instructions, and the plaintiff had failed to say anything to the deputy that would  
2 indicate that he ever intended to comply with those instructions.

3 SUPPORTING EVIDENCE: Exhibit 2 to the Declaration of Deputy  
4 Richard Wells and Exhibit 3, page 4, line 2 - page 5, line 18.

5 8. Deputy Wells first used OC spray to attempt to get the plaintiff to  
6 comply with the deputy's instructions.

7 SUPPORTING EVIDENCE: Exhibit 2 to the Declaration of Deputy  
8 Richard Wells Exhibit 3, page 5, lines 6-13; Young Declaration, paragraphs 18-20,  
9 page 2, lines 25-28.

10 9. When the use of OC spray did not cause the plaintiff to comply with  
11 the deputy's instructions, Deputy Wells used his baton to attempt to get the plaintiff  
12 to comply with the deputy's instructions, but only struck the plaintiff twice with the  
13 baton.

14 SUPPORTING EVIDENCE: Exhibit 2 to the Declaration of Deputy  
15 Richard Wells and Exhibit 3, page 8, lines 16-17 and page 10, line 16.

16 10. The two baton strikes by Deputy Wells struck the plaintiff on his leg.

17 SUPPORTING EVIDENCE: Exhibit 1 to the Declaration of Deputy  
18 Richard Wells, page 4 of 4; Young Declaration, paragraphs 23 and 29, page 3, lines  
19 6-7 and 17-19.

20 11. The plaintiff was arrested for violation of California Penal Code section  
21 148.

22 SUPPORTING EVIDENCE: Exhibit 2 to the Declaration of Deputy  
23 Richard Wells and Exhibit 3, page 13, lines 3-7.

24  
25 DATED: 7/27/09

  
HONORABLE MANUEL L. REAL  
UNITED STATES DISTRICT JUDGE